

Messrs. Tidd and Haynes:

On behalf of the Cincinnati Preservation Association and Cincinnati Preservation Collective (the "Preservation Organizations"), we hereby object to the additional evidence that was submitted this afternoon to the ZBA by counsel for Columbia REI LLC. I received a copy of two submissions by Columbia, which include a "Memorandum of Appellant Columbia REI LLC, Concerning the Protective Netting Placed on the Front Façade/West Face of the Dennison Hotel Building" containing two letter reports and prejudicial photographs of a partial building collapse in Covington, Kentucky, and a "Notice of Filing Copies of Public Records Pertaining to the Proceedings Conducted by the Historic Conservation Board Concerning 719-721 Main Street." We object to these submissions on the following grounds:

1. These additional submissions are impermissible additional evidence that is outside of the administrative record. No motion has been made or justification presented for the submission of this additional evidence under the factors set forth in Zoning Code Section 1449-15. Columbia disingenuously attempts to couch the Memorandum regarding the "protective netting" as "for information only." Columbia also attempts to introduce additional evidence about the Historic Conservation Board's decision regarding the property located at 719-721 Main Street on the belief that the rules allow for any alleged public record to be slipped into the administrative record. This is simply not the case and is improper under the Cincinnati Zoning Code and the ZBA Rules of Procedure.

Additional "information" is not permitted to be submitted under Cincinnati Zoning Code Section 1449-15 or the ZBA Rules of Procedure. The rules do not allow for the submission of additional information simply because it became known to the applicant after the decision or simply because it may be considered public record. None of this additional evidence is permitted and all of it should be stricken.

2. The submissions are irrelevant to issue before the ZBA – namely whether a review of the administrative record evidences that the Historic Conservation Board abused its discretion in denying a certificate of appropriateness to tear down the Dennison. There is no precedential value to the "information" submitted related to 719-721 Main Street. The HCB's decision on a different property under a completely different set of facts is completely irrelevant to the appeal. Neither the HCB nor the ZBA is bound by precedent. This is nothing but prejudicial, irrelevant, and impermissible additional evidence. Therefore, it must be stricken from the record.

Further, the reports presented relative to the "protective netting" are also intended to be prejudicial, have no bearing on a showing of economic hardship, and are irrelevant and impermissible additional evidence.

Finally, the photographs of a partially collapsed building in Covington, Kentucky is also intended to be prejudicial, is irrelevant to the matter at hand, and is impermissible additional evidence.

None of the additional evidence submitted by Columbia is permissible under the Cincinnati Zoning Code or the ZBA's Rules of Procedure. Therefore, the Preservation Organizations respectfully request that the entirety of these improper submissions be rejected by the Board and stricken from the record in this case.

Respectfully Submitted,

Sean Suder

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